

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed by the House on May 19, 2017: Yeas 137, Nays 7, 2 present, not voting; passed by the Senate on May 24, 2017: Yeas 30, Nays 1.

Filed without signature June 15, 2017.

Effective June 15, 2017.

**CONVERSION OF THE HAYS CALDWELL PUBLIC UTILITY
AGENCY TO THE ALLIANCE REGIONAL WATER AUTHORITY;
PROVIDING AUTHORITY TO ISSUE BONDS; GRANTING THE
POWER OF EMINENT DOMAIN; PROVIDING AUTHORITY TO
IMPOSE FEES**

CHAPTER 806

S.B. No. 1198

AN ACT

relating to the conversion of the Hays Caldwell Public Utility Agency to the Alliance Regional Water Authority; providing authority to issue bonds; granting the power of eminent domain; providing authority to impose fees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. (a) The Hays Caldwell Public Utility Agency is converted to a conservation and reclamation district to be known as the Alliance Regional Water Authority located in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties.

(b) The Alliance Regional Water Authority is not required to hold an election to confirm the creation of the authority.

SECTION 2. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11010 to read as follows:

CHAPTER 11010. ALLIANCE REGIONAL WATER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11010.001. DEFINITIONS. *In this chapter:*

- (1) "Authority" means the Alliance Regional Water Authority.
- (2) "Board" means the board of directors of the authority.
- (3) "Director" means a member of the board.
- (4) "District" means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, regardless of the manner of creation.
- (5) "Local government" means:

- (A) a municipality, county, district, or other political subdivision of this state;
- (B) a local government corporation;
- (C) a nonprofit corporation created to act on behalf of a local government; or
- (D) a combination of two or more of the entities described by this subdivision.

(6) "Private entity" includes an individual, corporation, organization, business trust, estate, trust, partnership, and association and any other legal entity that is not a governmental body or agency.

(7) "Sponsor" means:

- (A) the City of Kyle;
- (B) the City of San Marcos;
- (C) the City of Buda;
- (D) the Canyon Regional Water Authority; and
- (E) any other local government or private entity added to the authority as a sponsor under Section 11010.005.

(8) "Water" includes:

- (A) groundwater, percolating or otherwise, notwithstanding the quality of the groundwater;
- (B) any surface water, naturally or artificially impounded or in a navigable or nonnavigable watercourse; and
- (C) municipal wastewater or industrial wastewater, including municipal wastewater or industrial wastewater that has been treated to a quality suitable for reuse for a beneficial use.

Sec. 11010.002. **NATURE OF AUTHORITY.** The authority is a regional water authority in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 11010.003. **FINDINGS OF PUBLIC PURPOSE AND BENEFIT.** (a) The authority is created to serve a public use and benefit.

(b) All land and other property included in the territory of the authority will benefit from the works and projects to be accomplished by the authority under powers conferred by Section 59, Article XVI, Texas Constitution, and powers granted under this chapter.

Sec. 11010.004. **AUTHORITY TERRITORY.** (a) The authority is composed of the territory:

- (1) of the sponsors, including territory within the municipal boundaries of a sponsor that is a municipality;
- (2) located in the service areas of the sponsors as provided by the sponsors' respective certificates of convenience and necessity; and
- (3) added to and not excluded from the authority in accordance with applicable law.

(b) Territory added to the authority may be in a county other than a county listed in Section 11010.002.

Sec. 11010.005. **METHOD OF ADDING SPONSORS.** (a) The governing body of a local government or a private entity, including a water supply corporation, may petition the board to add that local government or private entity as a sponsor.

(b) A petition under Subsection (a) must be submitted in the manner and form required by board rule.

(c) On receipt of a petition under Subsection (a), the board shall set a hearing on the petition and provide notice of the date, time, place, and purpose of the hearing to:

- (1) the sponsors of the authority; and
- (2) the petitioning local government or private entity.

(d) *At the hearing, the board shall determine whether:*

(1) the local government or private entity will benefit from being added to the authority as a sponsor; and

(2) it is in the best interest of the authority to add the local government or private entity to the authority as a sponsor.

(e) If, after a hearing on the petition, the board determines that the local government or private entity should be added to the authority as a sponsor, the board shall issue an order:

(1) adding the local government or private entity to the authority;

(2) adding the local government's or private entity's territory or service area to the territory of the authority;

(3) making the local government's or private entity's territory or service area subject to the privileges, duties, assets, and financial obligations of the authority to the same degree as other sponsors already included in the authority; and

(4) stating the proposed effective date of the order.

(f) An order issued under Subsection (e) takes effect on the proposed effective date except as otherwise provided by this section. If the subject of the order is a local government, the proposed effective date must allow enough time for the local government to comply with Subsections (g) and (h).

(g) A local government that is the subject of an order issued under Subsection (e) shall publish notice of the authority's proposal to add the local government to the authority as a sponsor. The notice must:

(1) be published in a newspaper of general circulation in the county in which the local government is located;

(2) be published at least once per week for two consecutive weeks and with the first publication appearing on or before the 14th day before the proposed effective date of the order;

(3) state the proposed effective date of the order adding the local government to the authority as a sponsor; and

(4) include information regarding the right of the local government's voters to petition the governing body of the local government to call an election on the question of authorizing the addition of the local government to the authority as a sponsor and the method of making the petition.

(h) If the governing body of the local government, before the proposed effective date of the order, receives a petition calling for an election on the question of authorizing the addition of the local government to the authority as a sponsor that is signed by at least 10 percent of the local government's registered voters, the governing body shall order a special election on the question. Section 41.001(a), Election Code, does not apply to an election ordered under this subsection.

(i) On receipt of a qualifying petition under Subsection (h), the effective date of the order issued under Subsection (e) is suspended until after the date of the election and the governing body of the local government shall notify the board of the petition and suspension.

(j) If a majority of voters voting in an election held under this section vote in favor of the addition of the local government to the authority as a sponsor, the order issued under Subsection (e) takes effect on the date the result is declared. If a majority of voters voting in the election vote against the addition of the local government to the authority as a sponsor, the order issued under Subsection (e) is ineffective.

Sec. 11010.006. METHOD OF REMOVING SPONSORS. *(a) The governing body of a local government or private entity that is a sponsor of the authority may petition the board to be removed from the authority as a sponsor.*

(b) A petition under Subsection (a) must be submitted in the manner and form required by board rule.

(c) After receiving a petition under Subsection (a), the board shall decide whether the petitioning sponsor should be removed from the authority as a sponsor and shall by order approve, conditionally approve, or disapprove the petition.

(d) The board may not approve a petition submitted to the board under this section if that action would impair or violate or conflict with the terms of any outstanding bonds, notes, or other obligations of the authority.

(e) An order issued under Subsection (c) that approves or conditionally approves a sponsor's petition to be removed from the authority as a sponsor must address:

(1) all matters related to the removal as determined by the board, including the removal of the territory of the sponsor and territory located in the service area of the sponsor as provided by the sponsor's certificate of convenience and necessity; and

(2) if applicable, any conditions imposed by the board that the petitioning sponsor must satisfy before the board approves the petition, which may include:

(A) payment by the petitioning sponsor of all bonds, notes, or other obligations issued by the authority on behalf of the sponsor;

(B) payment by the petitioning sponsor of the sponsor's pro rata share of any bond, note, or other obligation issued by the authority, other than the bonds, notes, or other obligations described by Paragraph (A), if the payment is allowed under the terms of the bond, note, or other obligation;

(C) conditions related to the ownership or transfer of ownership of real property, facilities, equipment, personnel, and supplies; and

(D) conditions the authority considers necessary for the winding up of activities in connection with the removal of the petitioning sponsor as a sponsor from the authority.

(f) If the board by order conditionally approves a sponsor's petition under Subsection (c), the petitioning sponsor remains a sponsor and shall make all payments owed to the authority when due and shall satisfy all conditions included in the order. The board shall approve the petition immediately after all required payments to the authority are received and all conditions included in the order are satisfied as determined by the board.

(g) The removal of a local government or private entity from the authority as a sponsor under this section does not prohibit the local government or private entity from contracting with the authority for the provision of water supply, wastewater treatment, or other services provided by the authority.

Sec. 11010.007. REAPPORTIONMENT OF DIRECTORS. After the addition or removal of a sponsor under this subchapter, the board by rule shall reapportion the directors of the authority among the sponsors in accordance with Section 11010.051(c)(2). The board may increase or decrease the number of directors on the board in accordance with Section 11010.051(a).

Sec. 11010.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect its purposes.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11010.051. DIRECTORS. (a) The authority is governed by a board of directors consisting of at least 7 and not more than 17 members.

(b) The board is responsible for the management, operation, and control of the authority.

(c) The board by rule shall:

(1) establish the number of directors of the authority; and

(2) apportion the directors for each sponsor based on the amount of water contracted to be supplied to the sponsor under the terms of the authority's water supply contract with the sponsor, subject to Section 11010.053(a).

Sec. 11010.052. ELIGIBILITY TO SERVE AS DIRECTOR. (a) To be eligible to serve as a director, a person must be:

(1) at least 18 years of age; and

(2) a resident of the territory located in the authority or an employee of a sponsor.

(b) A director who also serves on the governing body of a sponsor is not a dual officeholder and is not prohibited by the common law doctrine of incompatibility from serving on both the board and the governing body.

(c) Service on the board by a public officeholder is an additional duty of that person's office.

Sec. 11010.053. **APPOINTMENT OF DIRECTORS.** (a) Each sponsor is entitled to appoint at least one director.

(b) Each director must be appointed by the governing body of a sponsor in accordance with the rules adopted under Section 11010.051 that govern the apportionment of directors among the sponsors.

(c) Directors must be appointed not earlier than April 1 and not later than April 30 of each year.

Sec. 11010.054. **TERMS OF OFFICE.** (a) Directors serve staggered three-year terms, with one-third or as near as possible to one-third of the members' terms expiring April 30 of each year.

(b) A director's term begins on May 1 of the year the director is appointed.

(c) A director may not serve more than five consecutive terms as a director.

Sec. 11010.055. **REMOVAL OF DIRECTOR.** A sponsor that appoints a director may remove the director from office at any time, with or without cause.

Sec. 11010.056. **BOARD VACANCY.** If there is a vacancy on the board, the governing body of the sponsor that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

Sec. 11010.057. **VOTING AUTHORITY.** Each director is entitled to one vote on any issue before the board.

Sec. 11010.058. **OFFICERS.** At the first meeting of the board after May 1 of each year, the board shall elect officers for the authority, including a chair, vice chair, secretary, and treasurer.

Sec. 11010.059. **MEETINGS AND ACTIONS OF BOARD; QUORUM.** (a) The board may meet as many times each year as the board considers appropriate.

(b) A majority of the membership of the board constitutes a quorum at a meeting of the board.

(c) A concurrence of a majority of the directors present and voting is sufficient for transacting any business of the authority unless other applicable law, or the authority by rule, requires a concurrence of a greater number of directors for a specific type of decision.

(d) Directors of the authority are public officials and are entitled to governmental immunity for their actions in their capacity as directors and officers of the authority.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 11010.101. **GENERAL POWERS AND DUTIES.** (a) The authority may:

(1) acquire, purchase, own, hold, lease, construct, improve, and maintain a reservoir, groundwater well, or other source of water supply, including:

(A) groundwater, surface water, and wastewater reused directly or indirectly; and

(B) aquifer storage and recovery facilities;

(2) acquire, own, construct, operate, repair, improve, maintain, or extend, inside or outside the authority's boundaries, water and wastewater works, improvements, facilities, plants, pipelines, equipment, and appliances for:

(A) the treatment and transportation of water and wastewater;

(B) the direct or indirect reuse of wastewater;

(C) aquifer storage and recovery projects; and

(D) the provision of wholesale water and wastewater services to authority customers, municipalities, districts, water supply corporations, and other persons in this state;

(3) acquire, purchase, own, hold, lease, and maintain interests, including capacity rights and other contractual rights, in sources of water supply, reservoirs, groundwater wells, water and wastewater systems, treatment works, improvements, facilities, plants, equipment, appliances, aquifer storage and recovery projects, and the direct or indirect reuse of wastewater;

(4) finance any purchase or acquisition through a bond, note, or other obligation under Subchapter E, or through a lease-purchase agreement; and

(5) sell, lease, convey, or otherwise dispose of any right, interest, or property the authority considers to be unnecessary for the efficient operation or maintenance of the authority's facilities.

(b) In addition to the powers specifically provided by this chapter, the authority may exercise the powers provided by Section 65.201, Water Code.

Sec. 11010.102. AUTHORITY POLICIES, RULES, AND BYLAWS. The authority may adopt and enforce policies, rules, and bylaws reasonably required to implement this chapter, including rules governing procedures before the board and rules regarding implementation, enforcement, and any other matters related to the exercise of the rights, powers, privileges, and functions conferred on the authority by this chapter for the provision of water and wastewater service.

Sec. 11010.103. EMINENT DOMAIN. (a) The authority may exercise the power of eminent domain to acquire a fee simple or other interest in property if the interest is necessary for the authority to exercise the rights or authority conferred by this chapter.

(b) The authority shall exercise the right of eminent domain in the manner provided by Chapter 21, Property Code. The authority is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party.

(c) The authority may not use the power of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or for the purpose of acquiring water or water rights.

Sec. 11010.104. WATER CONSERVATION OR DROUGHT CONTINGENCY PLANS. The authority by rule may develop, prepare, revise, adopt, implement, enforce, and manage water conservation or drought contingency plans for the authority or any portion of the authority.

Sec. 11010.105. SPONSOR CONVEYANCES AND ACQUISITIONS. (a) In this section, "utility system" has the meaning assigned by Section 1502.001, Government Code.

(b) A sponsor may convey a utility system facility or asset or the sponsor's interest in a utility system facility or asset to the authority without holding an election to approve the conveyance.

(c) A sponsor is exempt from the provisions of Chapter 1502, Government Code, regarding the conveyance, sale, or acquisition of a utility system, or any related works, improvements, facilities, plants, equipment, or appliances.

Sec. 11010.106. CONTRACTS. (a) The authority may contract with any person to carry out a power authorized by this chapter.

(b) A person who enters into a contract with the authority may pledge to the payment of the contract any source of revenue that may be available to the person, including ad valorem taxes, if the person has the authority to impose those taxes.

(c) Payments made under a contract with the authority constitute an operating expense of the person served under the contract, unless otherwise prohibited by a previously outstanding obligation of the person. To the extent a person pledges funds to the payment of the contract that are to be derived from the person's own water system, the payments constitute an operating expense of that system.

Sec. 11010.107. COOPERATIVE CONTRACTS. The authority may enter into an interlocal contract with a local government under Chapter 791, Government Code, to

carry out a power of the authority.

Sec. 11010.108. RATES AND FEES. (a) The authority shall establish rates and fees to be assessed against sponsors and customers of the authority. The rates and fees may be established by classes of customers, by project, or by area of service.

(b) A sponsor, local government, water supply corporation, private entity, or other person that contracts with the authority shall establish, charge, and collect fees, rates, charges, rentals, and other amounts for any service or facility provided under or in connection with a contract with the authority and shall pledge sufficient amounts to make all payments required under the contract.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 11010.151. AD VALOREM TAXES PROHIBITED. The authority may not impose an ad valorem tax.

Sec. 11010.152. GIFTS, GRANTS, LOANS, AND OTHER FUNDS. The authority may apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source.

SUBCHAPTER E. BONDS, NOTES, AND OTHER OBLIGATIONS

Sec. 11010.201. REVENUE BONDS, NOTES, AND OTHER OBLIGATIONS. (a) In addition to bonds, notes, and other obligations that the authority is authorized to issue under other law, to accomplish the purposes of the authority, the authority may issue bonds, notes, or other obligations payable solely from and secured by all or part of any funds or any revenue from any source or sources, including:

(1) fees, rates, and other charges the authority imposes or collects;

(2) the sale of:

(A) water;

(B) water or wastewater services;

(C) water rights or capacity;

(D) water transmission rights, capacity, or services;

(E) water pumping;

(F) wastewater reused directly or indirectly;

(G) aquifer storage and recovery services;

(H) sewer services; or

(I) any other service or product of the authority provided inside or outside the boundaries of the authority;

(3) grants or gifts;

(4) the ownership or operation of all or a designated part of the authority's works, improvements, facilities, plants, or equipment; and

(5) the proceeds of contracts.

(b) Bonds, notes, or other obligations issued by the authority may be first or subordinate lien obligations at the board's discretion.

(c) In connection with any bonds, notes, or other obligations of the authority, the authority may exercise any power of an issuer under Chapter 1371, Government Code.

(d) The authority may conduct a public, private, or negotiated sale of the bonds, notes, or other obligations.

(e) The authority may enter into one or more indentures of trust to further secure its bonds, notes, or other obligations.

(f) The authority may issue bonds, notes, or other obligations in more than one series as necessary to carry out the purposes of this chapter. In issuing bonds, notes, or other obligations secured by revenue of the authority, the authority may reserve the right to is-

sue additional bonds, notes, or other obligations secured by the authority's revenue that are on parity with or are senior or subordinate to the bonds, notes, or other obligations issued earlier.

(g) A resolution of the board or a trust indenture securing the bonds, notes, or other obligations may specify additional provisions that constitute a contract between the authority and the authority's bondholders, noteholders, or other obligation holders.

(h) Bonds, notes, or other obligations may be additionally secured by deed of trust or mortgage on any or all of the authority's facilities.

(i) The authority provided by this chapter for the authorization and issuance of bonds, notes, and other obligations is in addition to, and not in lieu of, the authority otherwise established under general law and may not be construed as a limitation on, or a modification of, general law providing for authorization and issuance of bonds, notes, and other forms of obligations. Nothing in this chapter may be construed as affecting any existing contract, bond, note, or other obligation of the authority or any indenture, covenant, mortgage, or other agreement relating to them.

Sec. 11010.202. ELECTION NOT REQUIRED. *The authority is not required to hold an election to approve the issuance of revenue bonds or notes or of other obligations under this subchapter.*

Sec. 11010.203. USE OF REVENUE AND GROWTH PROJECTIONS. *For the purposes of attorney general review and approval and in lieu of any other manner of demonstrating the ability to pay debt service and satisfy any other pecuniary obligations relating to bonds, notes, or other obligations, the authority may demonstrate the authority's ability to satisfy the debt service and those obligations using accumulated funds of the authority and revenue and growth projections prepared by a professional utility rate consultant at the direction of the authority. If the resolution authorizing the issuance of the bonds, notes, or other obligations provides that the authority intends to increase rates to the extent necessary to pay debt service and satisfy any other pecuniary obligations arising under the bonds, notes, or other obligations, the revenue projections prepared by a professional utility rate consultant may include forecast rate increases and accumulated and available fund balances as determined by the authority.*

Sec. 11010.204. REFUNDING BONDS. *The authority may issue refunding bonds, notes, and other obligations to refund any of its bonds, notes, or other obligations in any manner provided by law, including Chapter 1207, Government Code.*

Sec. 11010.205. BONDS, NOTES, AND OTHER OBLIGATIONS EXEMPT FROM TAXATION. *A bond, note, or other obligation issued under this chapter, a transaction related to the bond, note, or other obligation, the interest on the bond, note, or other obligation, and the profit from the sale of the bond, note, or other obligation are exempt from taxation by this state or a political subdivision of this state.*

SECTION 3. On the effective date of this Act:

(1) the Alliance Regional Water Authority shall assume all assets, liabilities, bonds, notes, and other obligations of the Hays Caldwell Public Utility Agency;

(2) all contracts and written agreements of the Hays Caldwell Public Utility Agency are assigned to and assumed by the Alliance Regional Water Authority; and

(3) the Alliance Regional Water Authority may refund all or a portion of the bonds, notes, or other obligations issued by the Hays Caldwell Public Utility Agency in any manner provided by law, including Chapter 1207, Government Code.

SECTION 4. (a) The sponsors of the Alliance Regional Water Authority shall appoint the initial directors under Section 11010.053, Special District Local Laws Code, as added by this Act, not earlier than April 1, 2018, and not later than April 30, 2018. Directors of the Hays Caldwell Public Utility Agency serving on the effective date of this Act shall serve as the temporary directors of the Alliance Regional Water Authority until the initial directors take office on May 1, 2018.

(b) As soon as practicable after the initial directors have been appointed under Section 11010.053, Special District Local Laws Code, as added by this Act, the initial direc-

tors shall draw lots to determine which directors serve a one-year term expiring April 30, 2019, which directors serve a two-year term expiring April 30, 2020, and which directors serve a three-year term expiring April 30, 2021. The lots must be split into thirds or as near to thirds as possible.

(c) This section expires January 1, 2022.

SECTION 5. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed the Senate on April 18, 2017: Yeas 28, Nays 3; the Senate concurred in House amendment on May 27, 2017: Yeas 28, Nays 3; passed the House, with amendment, on May 24, 2017: Yeas 137, Nays 9, two present not voting.

Filed without signature June 15, 2017.

Effective June 15, 2017.

PUBLIC SCHOOL ACCOUNTABILITY

CHAPTER 807

H.B. No. 22

AN ACT

relating to public school accountability.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 11.252(a), Education Code, is amended to read as follows:

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under *Section 39.053(c)* [~~Sections 39.053(c)(1)–(4)~~]. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;

(2) measurable district performance objectives for all appropriate achievement indicators for all student populations, including students in special education programs